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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,464	03/19/2004	William L. Noles	043878.303	7215
7590 John Whitworth Esq P. O. Box 208 Camden, TN 38320			EXAMINER ROWAN, KURT C	
			ART UNIT 3643	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/28/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/804,464

Applicant(s)

NOLES ET AL.

Examiner

Kurt Rowan

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3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6-4-04

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKinney (US 4965953) in view of Denny et al. (US 5289654).

The patents to McKinney and Denny shows decoys. McKinney shows animal body 12, a head member 14 connected with the body, a base mount 20 having a distal end and a proximal end. McKinney shows a body actuator 46 connected between the proximal end of the base mount and the animal body. The body actuator 46 moving said animal body in a first direction. McKinney shows a head actuator 38, 40, 44 connected between the animal body and the head member. The head actuator moving the head member in a second direction. In McKinney the first and second directions are the same. McKinney shows a string actuator 46 which a user controls the movements of the decoy with. The patent to Denny shows a decoy 10 having a controller 30 connected the head portion. Denny shows power source 28 connected to the controller and providing power to the body actuator and head actuator. Denny moves the head member in two different directions. In reference to claims 1, 9, and 15, it would have been obvious to provide the decoy of McKinney with a controller and power source as shown by Denny for the purpose of operating the decoy at a distance where a line

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would not be practical. In reference to claims 2 and 19, McKinney does not disclose the material used to make the decoy body, but it would have been obvious to employ dense foam to make the body since the selection of a known material is based on its suitability for the intended use. See *In re Leshin et al.* 125 USPQ 416. In reference to claims 3-4, and 20, McKinney shows a stake 20 mounted at an end of the bottom portion 18. This stake can also be considered as an anchor since it anchors the decoy in one location. McKinney shows the base member in Figs. 7-8 as the top horizontal part of the stake which has a distal end and a proximal end. In reference to claims 5 and 14, 18, Denny shows switch 26 which can be considered as a switch harness connected between the controller and the power source to control or govern when the power source is connected to the controller. It would have been obvious to provide the decoy of McKinney with a switch to govern when the power source is connected to the controller. In reference to claims 6 and 13, 16, 17, Denny shows a transmitter 22 and the controller is a remote control receiver 30 as disclosed in column 3, lines 7-42. In reference to claims 7 and 8, Denny shows two servomotors 32 and 34. In reference to claims 10 and 11, 21, 22, Denny discloses pivoting the head in an up and down direction and a lateral direction. It would have been obvious to pivot the body and the head in different directions in the decoy of McKinney to make the decoy appear more life-like. In reference to claim 12, Denny discloses controlling both actuators with a single or central controller. It would have been obvious to provide the decoy of McKinney with a central controller as shown by Denny to effect a remote activation.

Conclusion


3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Anders, Brint, Parr, Davis, Reinke, Higdon, Lanius, Overholt, Gazalski, Wright, Jackson, Boston, and Mitchell show the state of the art in movable decoys.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is (571) 272-6893. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Kurt Rowan
Primary Examiner
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